

REMARKS

Applicant submits correctly numbered claims consistent with 37 CFR 1.126.

Claims 5 and 9 correspond to claims 58 and independent method claim 62. In rejecting these claims, the Examiner states that they "are directed towards buildings not present in the independent claim."

With regard to claim 62, Applicant does not understand the Examiner's rejection because claim 62 is itself an independent claim. Accordingly, Applicant requests clarification or withdrawal of this section 112 rejection.

Claim 58 recites the additional limitation of "generating a local building play list having a plurality of entries including advertisement information." It is unclear what the difficulty is with the addition of this straightforward limitation. The "local building play list" is a newly introduced term that therefore requires no antecedent basis.

Claims 1, 62, 66, and 71 stand rejected under 35 USC 101 as claiming the same invention as corresponding claims in *Newville*,¹ which is a parent of this pending application.

A double-patenting rejection is proper only when exactly the same invention is being claimed twice. As set forth in the MPEP,

*"[a] reliable test for double-patenting under 35 USC 101 is whether a claim in the application could be literally infringed without literally infringing a corresponding claim in the patent"*²

Claim 1 of *Newville* requires that the display monitor be within the confines of an elevator. As noted by the Examiner, pending claim 1 removes this limitation.

¹ *Newville*, et al., U.S. Patent No. 6,349,797.

² MPEP 804(II)(A), citing *In re Vogel*, 422 F.2d 438 (CCPA 1970).

One might attempt to avoid claim 1 of *Newville* by the simple expedient of moving the display monitor to the elevator lobby, for example, rather than within the elevator itself. This attempt to avoid Newville's claim 1 would be thwarted by pending claim 1, which recites no such limitation on the location of the display monitor. Thus, according to the foregoing test, a double-patenting rejection is improper.

Claims 36, 47, and 53 of Newville differ from pending claimed 62, 66, and 71 in the same manner as set forth above in connection with claim 1. Accordingly, a double-patenting rejection is improper for at least the same reasons as set forth in connection with claim 1.

Claims 6, 12, and 17 correspond to renumbered claims 59, 65, and 70 respectively. These claims stand rejected on the basis of obviousness-type double-patenting. In view of the foregoing remarks concerning the independent claims from which these claims depend, Applicant requests reconsideration and withdrawal of this rejection.